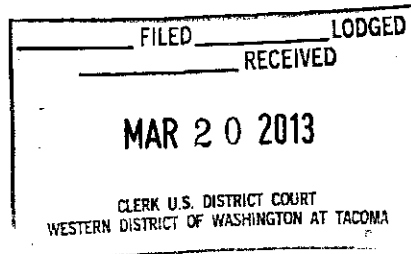


Judge Bryan



UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

UNITED STATES OF AMERICA,

Plaintiff,

v.

MICHAEL MARTIN,

Defendant.

No. CR12-5412RJB

PLEA STATEMENT

The United States of America, by and through Jenny A. Durkan, United States Attorney for the Western District of Washington, and Ye-Ting Woo, Assistant United States Attorney for said District, Defendant, Michael Martin, and his attorney, Jerome Kuh, submit the following Plea Statement:

1. The Charge. Defendant, having been advised of the right to have this matter tried before a jury, agrees to waive that right and enters his plea of guilty to the following charge contained in the Indictment.

a. Threats to Kill a Federal Official, as charged in Count 1, in violation of Title 18, United States Code, Section 115.

By entering this plea of guilty, Defendant hereby waives all objections to the form of the charging document. Defendant further understands that before entering his plea of guilty, he will be placed under oath. Any statement given by Defendant under oath may be used by the United States in a prosecution for perjury or false statement.

1 **2. Elements of the Offense.** The elements of the offense of Threats to Kill a Federal
2 Official, as charged in Count 1, in violation of Title 18, United States Code, Section 115, are as follows:

3 First, the defendant did knowingly threaten to assault a federal law enforcement officer;

4 Second, the defendant acted with intent to impede, intimidate, and interfere with the
5 federal law enforcement officer's performance of the officer's official duties,

6 Third, the defendant acted with intent to retaliate against such law enforcement officer
7 on account of the performance of such officer's official duties; and,

8 Fourth, the killing of any such federal law enforcement officer would have been a crime
9 under Title 18, United States Code, Section 1114;.

10 **3. The Penalties.** The statutory penalties for the offense of Threats to Kill a Federal
11 Official, as charged in Count 1 are as follows:

12 a. Count 1 (Threats to Kill a Federal Official): Imprisonment for up to ten (10)
13 years, a fine of up to two hundred and fifty thousand and no/100 dollars (\$250,000.00), a period of
14 supervision following release from prison of three (3) years, and a special assessment of one hundred
15 and no/100 dollars (\$100.00). If Defendant receives a sentence of probation, the probationary period
16 could be up to five (5) years. Defendant agrees that the special assessment shall be paid at or before the
17 time of sentencing.

18 Defendant understands that supervised release is a period of time following imprisonment during
19 which he will be subject to certain restrictions and requirements. Defendant further understands that if
20 supervised release is imposed and he violates one or more of its conditions, Defendant could be returned
21 to prison for all or part of the term of supervised release that was originally imposed. This could result
22 in Defendant's serving a total term of imprisonment greater than the statutory maximum stated above.

23 Defendant understands that in addition to any term of imprisonment and/or fine that is imposed,
24 the Court may order him to pay restitution to any victim of the offense, as required by law. Defendant
25 further understands that a consequence of pleading guilty may include the forfeiture of certain property
26 either as a part of the sentence imposed by the Court, or as a result of civil judicial or administrative
27 process.
28

1 Defendant agrees that any monetary penalty the Court imposes, including the special assessment,
 2 fine, costs, or restitution, is due and payable immediately and further agrees to submit a completed
 3 Financial Statement of Debtor form as requested by the United States Attorney's Office.

4 **4. Rights Waived by Pleading Guilty.** By pleading guilty, the Defendant knowingly and
 5 voluntarily waives the following rights:

- 6 a. The right to plead not guilty and to persist in a plea of not guilty;
- 7 b. The right to a speedy and public trial before a jury of his peers;
- 8 c. The right to the effective assistance of counsel at trial, including, if Defendant
 9 could not afford an attorney, the right to have the Court appoint one for him;
- 10 d. The right to be presumed innocent until guilt has been established beyond a
 11 reasonable doubt at trial;
- 12 e. The right to confront and cross-examine witnesses against Defendant at trial;
- 13 f. The right to compel or subpoena witnesses to appear on his behalf at trial;
- 14 g. The right to testify or to remain silent at trial, at which trial such silence could not
 15 be used against Defendant; and
- 16 h. The right to appeal a finding of guilt or any pretrial rulings.

17 **5. United States Sentencing Guidelines.** Defendant understands and acknowledges that, at
 18 sentencing, the Court must consider the sentencing range calculated under the United States Sentencing
 19 Guidelines, together with the other factors set forth in Title 18, United States Code, Section 3553(a),
 20 including: (1) the nature and circumstances of the offense; (2) the history and characteristics of the
 21 defendant; (3) the need for the sentence to reflect the seriousness of the offense, to promote respect for
 22 the law, and to provide just punishment for the offense; (4) the need for the sentence to afford adequate
 23 deterrence to criminal conduct; (5) the need for the sentence to protect the public from further crimes of
 24 the defendant; (6) the need to provide the defendant with educational and vocational training, medical
 25 care, or other correctional treatment in the most effective manner; (7) the kinds of sentences available;
 26 (8) the need to provide restitution to victims; and (9) the need to avoid unwarranted sentence disparity
 27 among defendants involved in similar conduct who have similar records. Accordingly, Defendant
 28 understands and acknowledges that:

1 a. The Court will determine his applicable Sentencing Guidelines range at the time
2 of sentencing;

3 b. After consideration of the Sentencing Guidelines and the factors in
4 18 U.S.C. 3553(a), the Court may impose any sentence authorized by law, up to the maximum term
5 authorized by law;

6 c. The Court is not bound by any recommendation regarding the sentence to be
7 imposed, or by any calculation or estimation of the Sentencing Guidelines range offered by the parties or
8 the United States Probation Department, or by any stipulations or agreements between the parties in this
9 Plea Agreement; and

10 d. Defendant may not withdraw a guilty plea solely because of the sentence imposed
11 by the Court.

12 6. **Ultimate Sentence.** Defendant acknowledges that no one has promised or guaranteed
13 what sentence the Court will impose.

14 7. **Statement of Facts.** The parties agree on the following facts. Defendant admits he is
15 guilty of the charged offense.

16 a. Defendant Michael Martin was a member of the United States Army for
17 approximately 12 years until he was discharged on June 15, 2012 with a character of service of "Under
18 Other Than Honorable Discharge." Martin was then permanently barred from the Joint Base
19 Lewis-McChord (JBLM). On June 28, 2012, Martin was apprehended on JBLM for suspicion of
20 trespassing. Martin has a Facebook page and shortly following his apprehension, on approximately June
21 28 or 29, 2012, the following posts were on his Facebook page: "I just wanna give a big FFFUCK
22 YOUUUU!!! To Fort Lewis! Thanks 4 arresting me 4 going 2 college tonite, that was awesome!! 1st yall
23 put me in jail 4 takin care of mommy when daddy died, now u arrest me 4 goin 2 skool?!?! Whats next, r
24 yall gonna take me to court 4 eating breakfast? Maybe take me in 4 goin 2 tha bathroom?!? FUCK
25 YOU!!! Keep this up & im gonna put my bomb-makin skillz 2 work!!! Think im fuckin playin."

26 b. On July 5, 2012, Michael E. Martin was contacted at his residence by members of
27 the FBI Joint Terrorism Task Force, and local police officers, regarding the June 28, 2012, Facebook
28 posting. Martin declined to allow the FBI and local police to enter his apartment. Martin advised he had

1 no weapons, bombs or explosive devices and is completely avoiding any contact with JBLM. Martin
2 acknowledged that he made the statements on his Facebook page, and claimed that his reference to
3 "bomb-makin skillz" was in reaction to being pulled out of class the previous week and subsequently
4 arrested for trespassing on JBLM. Martin advised he had no intention of bombing the JBLM or causing
5 physical harm to others.

6 c. In September 2012, Michael E. Martin submitted a report to the JAG Office
7 claiming that his ex-girlfriend, A.E.P., had engaged in acts of harassment, assault, and perjury. A.E.P. is
8 employed by the United States Army with the rank of E-4 Specialist (SPC).

9 d. In February 2012, a summary court martial was held as to several violations by
10 Martin. He was charged with several violations under Army Regulation AR635200, Chapter 14-12(c).
11 These violations included misconduct by the defendant in failing to obey Captain M. Ford and First
12 Sergeant T. Liles. In May 2012, an administrative hearing was held to determine Martin's suitability to
13 continue active service. At this hearing, it was decided for Martin to be discharged for Other Than
14 Honorable Conditions. On June 15, 2012, Martin was formally discharged from the U.S. Army.

15 e. On Friday, September 21, 2012, at 09:54 AM, this email was sent from the
16 defendant to M. Steward, Chief of Military Police Investigations, Provost Marshal Office: "Mike, Hey
17 there Mike, so as you know I came in a couple weeks ago and submitted my statement to one of your
18 officers. He told me he'd get back to me within a week and let me know if the JAG was actually going to
19 do anything about this or not. It's been 2 weeks now, so I was just wanting to see what's going on with
20 this whole issue right now. Please let me know what's up. Thanks Michael E. Martin United States
21 Army." Attached to the defendant's email to Chief Steward was a Word document entitled, "Cruelty,
22 Maltreatment & Toxicity."

23 f. In the "Cruelty, Maltreatment & Toxicity" document sent by Martin to Chief
24 Steward, the defendant made numerous inflammatory statements about his ex-girlfriend as well as
25 Captain Ford, First Sergeant Liles, other military staff, and the defendant's belief that they conspired to
26 have him discharged from the Army. Specifically, the defendant sought to have a military criminal
27 investigation conducted against his ex-girlfriend and other military staff members.
28

"I have just one question about that, how come the SJA saw fit to pursue charges against me for "communicating a threat" to SPC [A.E.P.] by sending her an email telling her I was taking her to court - even though we were both off post, but won't pursue charges against her for FUCKING THREATENING TO KILL ME. u tell that mutherfucker if he doesn't pursue charges against her for threatening to kill me then i'm going to fucking murder her, murder him, and murder everyone else who fucking destroyed my life, my career, and too away my ability to take care of my elderly disabled mother with bullshit charges that were illegal and unlawful and unjust. if they can pursue charges against me and convict me for "threatening" to take her to court for committing perjury against me when we were both offpost when i sent that email then they can absolutely pursue charges against her for fucking threatening to kill me!!! i'm not fucking playing with you fucking idiots anymore. if anybody dies out of this then the blood is on the JAG'S HANDS NOT MINE. IF THEY DON'T PURSUE CHARGES AGAINST HER LIKE THEY UNLAWFULLY DID ME THEN SOLDIERS ARE GOING TO FUCKING DIE!!!

i. Captain Elder is a Staff Advocate Judge Prosecutor and was responsible for reviewing the allegations made by the defendant about the defendant's ex-girlfriend and other military personnel.

Dated this 20th day of March, 2013.

YE-TING WOO
Assistant United States Attorney